



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 9 and 721

[EPA-HQ-OPPT-2011-0109; FRL-8892-2]

RIN 2070-AB27

Revocation of the Significant New Use Rule on a Certain Chemical Substance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is revoking a significant new use rule (SNUR) promulgated under section 5(a)(2) of the Toxic Substances Control Act (TSCA) for the chemical substance identified generically as substituted ethoxyethylamine phosphonate, which was covered by premanufacture notice (PMN) P-95-1950. EPA issued a SNUR designating certain activities as significant new uses based on the concern criteria. Subsequently, EPA received and reviewed new information and test data for the chemical substance. Based on the new information and test data, the Agency no longer finds that the activities not described in PMN P-95-1950 constitute significant new uses.

DATES: This final rule is effective *[insert date 60 days after date of publication in the Federal Register]*.

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA-HQ-OPPT-2011-0109. All documents in the docket are listed in the docket index available at <http://www.regulations.gov>. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in

hard copy form. Publicly available docket materials are available in the electronic docket at <http://www.regulations.gov>, or, if only available in hard copy, at the OPPT Docket.

The OPPT Docket is located in the EPA Docket Center (EPA/DC) at Rm. 3334, EPA West Bldg., 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number of the EPA/DC Public Reading Room is (202) 566-1744, and the telephone number for the OPPT Docket is (202) 566-0280.

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FOR FURTHER INFORMATION CONTACT: *For technical information contact:*

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TSCA-Hotline@epa.gov.

SUPPLEMENTARY INFORMATION:**I. Does this Action Apply to Me?**

You may be potentially affected by this action if you manufacture, import, process, or use the chemical substance contained in this revocation. Potentially affected entities may include, but are not limited to:

- Manufacturers, importers, or processors of the subject chemical substance (NAICS codes 325 and 324110), e.g., chemical manufacturing and petroleum refineries.

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. To determine whether you or your business may be affected by this action, you should carefully examine the applicability provisions in § 721.5. If you have any questions regarding the applicability of this action to a particular entity, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

II. Background*A. What Action is the Agency Taking?*

In the **Federal Register** of May 11, 2011 (76 FR 27294) (FRL-8871-3), the Agency proposed revocation of the SNUR at 40 CFR 721.6078 for the chemical substance identified generically as substituted ethoxyethylamine phosphonate (PMN P-95-1950). The comment period for the proposed rule closed on June 10, 2011; EPA received no comments on the action.

Based on the results of submitted aquatic toxicity testing for the chemical substance, EPA has determined that the substance has inherently low toxicity, mitigating concerns for toxicity to aquatic organisms. Therefore, EPA rescinds its determination that releases to water resulting in stream concentrations that exceed 30 parts per billion (ppb) may cause significant adverse environmental effects. Based on available information, the substance no longer meets the concern criteria at § 721.170(b)(4)(ii). Therefore, EPA is revoking the SNUR for this chemical substance pursuant to § 721.185(a)(4).

B. What is the Agency's Authority for Taking this Action?

Section 5(a)(2) of TSCA (15 U.S.C. 2604(a)(2)) authorizes EPA to determine that a use of a chemical substance is a “significant new use.” EPA must make this determination by rule after considering all relevant factors, including those listed in TSCA section 5(a)(2). Once EPA determines that a use of a chemical substance is a significant new use, TSCA section 5(a)(1)(B) requires persons to submit a significant new use notice (SNUN) to EPA at least 90 days before they manufacture, import, or process the chemical substance for that use. The mechanism for reporting under this requirement is established under § 721.5.

Upon conclusion of the review for PMN P-95-1950, based on the concern criteria in § 721.170(b)(4)(ii), EPA determined that there was a concern for potential environmental effects of the substance and promulgated a SNUR for this chemical substance.

Under § 721.185, EPA may at any time revoke a SNUR for a chemical substance which has been added to subpart E of 40 CFR part 721 if EPA makes one of the determinations set forth in § 721.185 (a)(1) through (a)(6). Revocation may occur on

EPA's initiative or in response to a written request. EPA has determined that the criteria set forth in § 721.185(a)(4) have been satisfied for the chemical substance. Therefore, EPA is hereby revoking the SNUR provisions for this chemical substance. When this final revocation becomes effective, EPA will no longer require notice of intent to manufacture, import, or process this substance for any significant new uses. In addition, export notification under TSCA section 12(b) and 40 CFR part 707, subpart D triggered by the SNUR would no longer be required.

III. Statutory and Executive Order Reviews

This rule revokes or eliminates an existing regulatory requirement and does not contain any new or amended requirements. As such, the Agency has determined that this SNUR revocation would not have any adverse impacts, economic or otherwise.

The Office of Management and Budget (OMB) has exempted these types of regulatory actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). This rule does not contain any information collections subject to approval under the Paperwork Reduction Act (PRA), (44 U.S.C. 3501 *et seq.*). Since this rule eliminates a reporting requirement, the Agency certifies pursuant to section 605(b) of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), that this SNUR revocation would not have a significant economic impact on a substantial number of small entities.

For the same reasons, this action does not require any action under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4). This rule has neither Federalism implications, because it would not have substantial direct effects on States, on the relationship between the national government and the States, or on the distribution of

power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999), nor tribal implications, because it would not have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes, as specified in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 9, 2000).

This action is not subject to Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997), because this is not an economically significant regulatory action as defined under Executive Order 12866, and it does not address environmental health or safety risks disproportionately affecting children. It is not subject to Executive Order 13211, entitled *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001), because this action is not expected to affect energy supply, distribution, or use. Because this action does not involve any technical standards, section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note), does not apply to this action. This action does not involve special considerations of environmental justice related issues as required by Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994).

IV. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report to each House of the Congress and the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a “major rule” as defined by 5 U.S.C. 804(2).

List of Subjects

40 CFR Part 9

Environmental protection, Reporting and recordkeeping requirements.

40 CFR Part 721

Environmental protection, Chemicals, Hazardous substances, Reporting and recordkeeping requirements.

Dated: November 29, 2011.

Wendy C. Hamnett,

Director, Office of Pollution Prevention and Toxics.

Therefore, 40 CFR parts 9 and 721 are amended as follows:

PART 9--[AMENDED]

1. The authority citation for part 9 continues to read as follows:

Authority: 7 U.S.C. 135 *et seq.*, 136-136y; 15 U.S.C. 2001, 2003, 2005, 2006, 2601-2671; 21 U.S.C. 331j, 346a, 348; 31 U.S.C. 9701; 33 U.S.C. 1251 *et seq.*, 1311, 1313d, 1314, 1318, 1321, 1326, 1330, 1342, 1344, 1345 (d) and (e), 1361; E.O. 11735, 38 FR 21243, 3 CFR, 1971-1975 Comp. p. 973; 42 U.S.C. 241, 242b, 243, 246, 300f, 300g, 300g-1, 300g-2, 300g-3, 300g-4, 300g-5, 300g-6, 300j-1, 300j-2, 300j-3, 300j-4, 300j-9, 1857 *et seq.*, 6901-6992k, 7401-7671q, 7542, 9601-9657, 11023, 11048.

2. The table in § 9.1 is amended by removing under the undesignated center heading “Significant New Uses of Chemical Substances” § 721.6078.

PART 721--[AMENDED]

3. The authority citation for part 721 continues to read as follows:

Authority: 15 U.S.C. 2604, 2607, and 2625(c).

§ 721.6078 [Removed]

4. Remove § 721.6078.